IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

OP.No. 26664 of 1999(Y)

PETITIONER:

B.GOPINATHAN NAIR,
FOOD INSPECTOR,
KASARGODE CIRCLE,
KASARGODE.

BY ADV. SRI.S.RAMESH BABU

RESPONDENTS:
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1. **STATE OF KERALA,**
   REPRESENTED BY THE SECRETARY TO GOVERNMENT,
   HEALTH AND FAMILY WELFARE (E) DEPARTMENT,
   SECRETARIAT, TRIVANDRUM.

2. **DIRECTOR OF HEALTH SERVICES,**
   DIRECTORATE OF HEALTH SERVICES,
   TRIVANDRUM.

3. **KERALA PUBLIC SERVICE COMMISSION,**
   REPRESENTED BY ITS SECRETARY,
   PATTOM, TRIVANDRUM.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC
BY GOVERNMENT PLEADER SRI. K.V. MANOJ

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.45007/1999 IN O.P.NO.26664/1999 Y

DISMISSED

7/06/2007 **SD/-T.R.RAMACHANDRAN NAIR,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE G.O. DTD. 3/09/1997.**

EXT.P2: **COPY OF THE G.O.NO.395/81/HD DTD. 19/12/1981.**

EXT.P3: **COPY OF THE JUDGMENT DTD. 29/06/1998.**

EXT.P4: **COPY OF THE NOTES ON THE PROPOSED AMENDMENT.**

EXT.P5: **COPY OF THE REPRESENTATION DTD. 21/02/1999.**

EXT.P6: **COPY OF THE LETTER WITHOUT ENCLOSURES DTD.27/03/1999.**

EXT.P7: **COPY OF THE LETTER NO.20826/E3/99H&FWD DTD. 20/08/1999.**

EXT.P8: **COPY OF THE ORDER DTD. 7/10/1999.**

/TRUE COPY/

KSS

T.R.RAMACHANDRAN NAIR, J.

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O.P.No. 26664 of 1999-Y.

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Dated this the 7th day of June, 2007.

J U D G M E N T

The petitioner is working as Food Inspector under the Directorate of Health Services. The challenge in this original petition is against Ext.P8 to the extent that it does not provide for the training qualification in the matter of promotion to the post of District Food Inspector. The short facts are the following.

2. The Government had prescribed qualifications for the post of District Food Inspector as per Ext.P1 and the qualifications are:

(i) S.S.L.C

(ii) Health Inspector/Sanitary Inspector's Certificate of Kerala, Bombay, Madras or of the Rural Institute, Thavanur or of the Indian Institute of Local Self Government, Bombay.

(iii) Food Inspector's training .

The petitioner points out that Ext.P1 suffered an anomaly in that at a later point of time in the post of Food Inspector, higher qualifications were prescribed as per Ext.P2. It resulted in filing of OP.No.3332/1993 by certain persons who were working as Food Inspectors. Ultimately this Court

directed the Government to expedite framing of Special Rules after due consultation with the Public Service Commission as per Ext.P3 judgment. Ultimately the Government had brought down Ext.P8 whereby qualifications were prescribed for various posts including the posts of Chief Food Inspector and District Food Inspector. Presently the complaint of the petitioner is that in Ext.P1 there was a prescription providing for Food Inspectors' Training as an essential qualification which stands deleted in Ext.P8. The complaint is that now persons who are not having the training could occupy the higher posts.

3. The Government has filed a counter-affidavit detailing the circumstances under which the above order was issued. The contentions raised by the petitioner is met in para.10 as follows:

> **"10. Health Inspectors training course is not prescribed under PFA Act for any of the personnels appointed under the Act. The Act has its own scheme of training programme namely Food Inspection and sampling work for a period of 3 months. The petitioners argue that the attempt was to remove the said two training courses namely Food Inspectors training and Health Inspectors training. This is absolutely baseless because, in the feeder category for the post of Chief Food Inspector and District Food Inspector, Health Inspector Grade I and Food Inspector were included. Health Inspector Grade I**

> **is a person who has undergone Health Inspectors training programme and Food Inspectors is a person who has undergone training programme in Food inspection and sampling work. Health Inspectors training course is not essential for discharging the duties of Local (Health) Authority, a statutory post under the Prevention of Food Adulteration Act."**

It is also stated in para.14 that Food Inspectors and Health Inspectors Grade I are still in the feeder category and so indirectly still the training qualification is necessary for appointment to the post. It is also pointed out that the qualifications provided in Ext.P8 is finalised as per the direction of this Court and in consultation with the P.S.C. It is also pointed out that Health Inspector's training is not essential for discharging duties under Prevention of Food Adulteration Act.

4. In view of the above circumstances pointed out in the counter-affidavit the grievance of the petitioner has been fully met and therefore no further directions are called for in this case. At any rate it cannot be held that Ext.P8 suffers from any arbitrariness while prescribing the qualifications for the posts. The Government has evidently considered the entire aspects in the light of the provisions of the Prevention of Food Adulteration Act and the duties and responsibilities to be discharged by various officers under the said

Act. Health Inspector's training is not essential for discharging duties under Prevention of Food Adulteration Act. Hence the contentions raised by the petitioners have to fail.

The Original Petition is disposed of accordingly.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-